

Application No. 10/511,505
Amendment dated July 23, 2008
Reply to Office Action of April 23, 2008

Docket No.: 62302(70403)

REMARKS

Claims 1-37 are pending in the instant application. Claims 1-37 stand cancelled by this amendment, without prejudice. Claims 38-61 are newly presented. Support for the amendment can be found throughout the specification and in the original claims of the application. No new matter is introduced. Applicants further request reconsideration of the subject application based on the following remarks.

Amendment of any claim herein is not to be construed as acquiescence to any of the rejections/objections set forth in the instant Office Action, and was done solely to expedite prosecution of the application. Applicants make these amendments without prejudice to pursuing the original subject matter of this application in a later filed application claiming benefit of the instant application, including without prejudice to any determination of equivalents of the claimed subject matter.

Objection to the Specification

The specification is objected to for inconsistent use of the American and British forms of the English language terms "ionized" and "ionised". Applicants have amended the specification to provide consistency of usage. Applicants respectfully request withdrawal of the objection.

The specification is objected to for use of the trademark PERSPEX. Applicants have amended the specification to respect and reflect the proprietary nature of the mark. Applicants respectfully request withdrawal of the objection.

Rejection under 35 U.S.C. § 102(b)

Claims 1-3, 14, 17-25 and 37 are variously rejected as allegedly anticipated by the cited art in the Action, respectively. Applicants traverse. However, as claims 1-37 are cancelled by this amendment, the rejection is rendered moot. Applicants request withdrawal of the rejection.

Rejection under 35 U.S.C. § 103(a)

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Claims 4-5 are rejected as allegedly rendered obvious in view of Shahgholi et al. Applicants traverse. However, as claims 4-5 are cancelled by this amendment, the rejection is rendered moot. Applicants request withdrawal of the rejection.

New Claims

Applicants also wish to note that new claims 38-61 are directed to methods of quantifying a plurality of elements. Support for the newly presented claims appears throughout the specification and claims as originally filed, including at pages 6-8 of the specification and claims 18-36 as filed. Applicants submit that the newly presented claims are both novel and unobvious in view of the disclosure of Vestal et al. (WO 96/03768). In particular, Vestal et al. do not disclose the comparison of a sample with a standard reference material. The only disclosure in Vestal et al. of a comparison is an automatic procedure for checking the calibration and recalibration of the mass scale to maintain a desired mass accuracy (see page 18, line 23 to page 20, line 9). This is accomplished by loading a sample plate containing one or more known samples, such that the known mass spectrum can be used to automatically check and correct the mass scale as necessary in a MALDI instrument. This is distinguishable and significantly different than determining the quantity and plurality of elements within a sample with reference to a certified reference material as recited in the enclosed claims.

Thus, the disclosure of Vestal et al. would not motivate one of skill in the art to arrive at a method of quantifying a plurality of elements within a sample, as recited in the amended claims. Further, *arguendo*, even if there were such motivation, Vestal et al. fails to provide an enabling disclosure of how a person of skill in the art would quantify a plurality of elements within a sample by the method defined in the instant claims.

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In view of the above remarks, Applicants believe the pending application is in condition for allowance. Should any of the claims not be found to be allowable, the Examiner is requested to telephone Applicants' undersigned representative at the number below. Applicants thank the Examiner in advance for this courtesy. In view of the above amendment, Applicants believe the pending application is in condition for allowance.

The Director is hereby authorized to charge or credit any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105, under Order No. 62302(70403).

Dated: July 23, 2008

Respectfully submitted,

By

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